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Approved For Release 2005/09/29 : CIA-RDP81M00980R000800010005-8

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June 28, 1978

OLC #78-2623

RECODIFICATION OF FEDERAL CRIMINAL LAW

TENTATIVE DRAFT

The attached "Tentative Draft" represents the Criminal Justice Subcommittee's efforts, to date, to recodify the federal criminal law.

Title I of the draft legislation is a recodification of Title 18 of the United States Code. Current Title 18 sections are renumbered and regrouped in a more logical and orderly sequence.

The draft legislation divides Title 18 into 4 parts. Part I, Crimes, sets forth all the substantive offenses of the new criminal code. Part II, Criminal Procedure, recodifies miscellaneous provisions of the current law dealing with procedural matters. The third part of Title 18, Sentencing, establishes the sentencing alternatives available and carries forward existing special offender statutes. Part IV of new Title 18, Corrections, contains provisions dealing with post-sentencing matters, such as parole.

Besides renumbering and rearranging present statutes, the draft legislation makes other changes in current law. For example, outmoded and obsolete statutes presently in the law are repealed. Included with the draft legislation is a section-by-section numerical outline of proposed Title 18. This document lists to the right of each section, in parentheses, the equivalent section number of the current Title 18 offenses. The outline also contains, in brackets, all those sections deleted from current law and the other organizational changes made by the draft legislation.

The proposal further amends the current law by establishing a uniform fine provision for all criminal offenses. Maximum fine levels are increased from those currently permitted (new § 30501). A few maximum prison terms are also changed to provide more consistency in authorized penalties.

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In the area of sentencing, the draft legislation, in an attempt to alleviate unwarranted sentencing disparity, requires the Judicial Conference of the United States to promulgate advisory sentencing guidelines to be considered by federal judges upon imposition of sentence (new § 30101). The draft bill also provides for appellate review of a sentence at the behest of a defendant (new § 30103). In the probation area, the draft bill makes probation a separate sentence and permits a judge to impose a prison component of up to 1 year when imposing a "split-sentence" in new § 30301(d). Current law permits a judge to give a 6 month prison component in the "split-sentence" situation.

Another substantive change made by the draft bill is to former § 3148 of Title 18, United States Code, which becomes new § 21707 of Title 18 under the proposal. This section is amended to permit a judge to deny bail for an accused charged with offenses punishable by life imprisonment in addition to capital offenses.

Title II of the draft legislation will contain amendments to sections outside of Title 18 that are necessary to conform those sections to the changes made in Title 18 of the proposed code.

The Subcommittee is circulating the draft legislation to interested organizations and persons. It is hoped that comments on the draft could be received by the Subcommittee as soon as possible and, in any event, no later than July 15, 1978.

The "tentative draft" thus not been completely edited, and it may, therefore, contain some typographical errors. The Subcommittee will be glad to receive, in addition to comments upon the substance of the draft, comments noting printing mistakes.

The Subcommittee is sensitive to the concern that recodification of federal criminal laws be an open process in which all concerned have an opportunity to participate in the legislative process. The Subcommittee encourages comments on its proposal and will give careful consideration to them.

JUNE 30, 1978

A Proposed Outline for Revised Title 18 of United States Code

TITLE 18.—CRIMES, CRIMINAL PROCEDURE, AND CORRECTIONS

Subtitle	Section
I. Crimes	101
II. Miscellaneous Provisions Relating to Criminal Procedure	20101
III. Sentencing	30101
IV. Corrections	40101

Subtitle I—Crimes

Chapter

1. GENERAL PROVISIONS

- 101. Definitions for title.
- 102. Offenses classified (1).
- 103. Principals and accessories (2, 3).
- 104. Misprision of felony (4).
- 105. Assimilative Crimes Act [Laws of States adopted for areas within Federal jurisdiction] (13).

3. AIRCRAFT AND MOTOR VEHICLES

- 301. Destruction of aircraft or aircraft facilities (32).
- 302. Destruction of motor vehicles or motor vehicle facilities (33).
- 303. Penalty when death results (34).
- 304. False information (35).
- 305. Definition for sections 301 through 305 (31).
- [306. Aircraft piracy outside special aircraft jurisdiction of the United States (49 U.S.C. 1472(n))].

5. ANIMALS AND WILDLIFE

- 501. Hunting, fishing, trapping; disturbance or injury on wildlife refuges (41).
- 502. Importation or shipment of injurious animals and birds; permits; specimens for museums; regulations (42).
- 503. Transportation of wildlife taken in violation of State, national, or foreign laws; receipt; making false record (43).
- 504. Marking packages or containers (44).
- [Capturing or killing carrier pigeons (45).]
- [Transportation of water hyacinths (46): move to chapter 105.]
- 505. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes (47).
- [Arson (81): move to chapter 81.]

7. ASSAULT

- 701. Assaulting, resisting, or impeding certain officers or employees (111).
- [Make sure that relevant coverage extends to persons now covered under 21 U.S.C. 675 and 1041(c).]
- 702. Protection of foreign officials, official guests, and internationally protected persons (112).
- 703. Assaults within maritime and territorial jurisdiction (113).
- 704. Maiming within maritime and territorial jurisdiction (114).
- 705. Presidential and congressional assault (351, 1751).

[TENTATIVE DRAFT]

JUNE 27, 1978

95TH CONGRESS
2D SESSION

H. R.

IN THE HOUSE OF REPRESENTATIVES

JULY , 1978

Mr. ----- introduced the following bill; which was referred to the
Committee on -----

A BILL

To revise title 18 of the United States Code, and for other purposes.

1 *Be it enacted by the Senate and the House of Representatives of the*
2 *United States of America in Congress assembled, That this Act may*
3 *be cited as the "Criminal Justice Improvements Act of 1978".*

TITLE I—REVISION OF TITLE 18

5 SEC. 101. Title 18 of the United States Code is amended to read as
6 follows:

TITLE 18.—CRIMES, CRIMINAL PROCEDURE, AND CORRECTIONS

Subtitle	Section
I. Crimes	101
II. Miscellaneous Provisions Relating to Criminal Procedure.....	20101
III. Sentencing	30101
IV. Corrections	40101

9

Subtitle I—Crimes

CHAPTER	Sec.
1. GENERAL PROVISIONS.....	101
3. AIRCRAFT AND MOTOR VEHICLES.....	301
5. ANIMALS AND WILDLIFE.....	501
7. ASSAULT	701
9. BANKRUPTCY	901
11. BRIBERY, GRAFT, AND CONFLICTS OF INTEREST.....	1101
13. CIVIL RIGHTS.....	1301